

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MEGGAN J. ALEXANDER and  
DAVID L. ALEXANDER.

Defendants.

No. 10-CR-3018-LRR

**FINAL JURY INSTRUCTIONS**

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Ladies and Gentlemen of the Jury:

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I will now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of and during trial are not repeated here.

The instructions I am about to give you now are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, all instructions, whenever given and whether in writing or not, must be followed.

**INSTRUCTION NO. 1**

In considering these instructions, attach no importance or significance whatsoever to the order in which they are given.

**INSTRUCTION NO. 2**

Neither in these instructions nor in any ruling, action or remark that I have made during this trial have I intended to give any opinion or suggestion as to what the facts are or what your verdicts should be.

**INSTRUCTION NO. 3**

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you just verdicts, unaffected by anything except the evidence, your common sense and the law as I give it to you.

#### INSTRUCTION NO. 4

I have mentioned the word “evidence.” The “evidence” in this case consists of the following: the testimony of the witnesses, documents and other things received as exhibits and facts that have been stipulated—that is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions and comments by the lawyers are not evidence.
2. Anything that might have been said by jurors, the attorneys or the judge during the jury selection process is not evidence.
3. Objections are not evidence. The parties have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
4. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.
5. Anything you saw or heard about this case outside the courtroom is not evidence.

If you were instructed that some evidence was received for a limited purpose only, you must follow that instruction. During the trial, documents were referred to but they were not admitted into evidence and, therefore, they will not be available to you in the jury room during deliberations.

**INSTRUCTION NO. 5**

The government and the defendants have stipulated—that is, they have agreed—that certain facts are as counsel have stated. You must therefore treat those facts as having been proved.

**INSTRUCTION NO. 6**

There are two types of evidence from which a jury may properly find the truth as to the facts of a case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witness to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.



### **INSTRUCTION NO. 7**

The jurors are the sole judges of the weight and credibility of the testimony and the value to be given to the testimony of each witness who has testified in this case. In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.



### **INSTRUCTION NO. 8**

In a previous instruction, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached” and how you are to consider the testimony of certain witnesses.

A witness may be discredited or impeached by contradictory evidence; by showing that the witness testified falsely concerning a material matter; by showing the witness has a motive to be untruthful; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness’s present testimony.

**INSTRUCTION NO. 9**

Exhibits have been admitted into evidence and are to be considered along with all of the other evidence to assist you in reaching your verdicts. You are not to tamper with the exhibits or their contents, and each exhibit should be returned into open court, along with your verdicts, in the same condition as it was received by you.

Before the trial, I ruled that you could not see parts of some of the exhibits entered into evidence. And sometimes I ordered you to disregard things that you saw or heard, or I struck things from the record. You must completely ignore anything I instructed you to disregard. Do not speculate about what a witness might have said or what else an exhibit might have shown. These excluded parts are not evidence, and you are bound by your oath not to let them influence your decision in any way.

### **INSTRUCTION NO. 10**

The charges in this case are as follows:

Under Count 1, the Indictment charges that defendant Meggan Alexander committed the crime of making a false statement in connection with a loan to be insured by the Department of Housing and Urban Development.

Under Counts 2 and 3, the Indictment charges that defendant Meggan Alexander committed the crime of making a false statement to a federally insured financial institution, specifically Bank of America.

Under Counts 4 and 5, the Indictment charges that defendant Meggan Alexander and defendant David Alexander committed the crime of making a false statement to a federally insured financial institution, specifically Bank of America.

Each defendant has pleaded not guilty to each crime with which he or she is charged.

As I told you at the beginning of trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, each defendant is presumed to be innocent. Thus each defendant, even though charged, begins the trial with no evidence against him or her. The presumption of innocence alone is sufficient to find the defendants not guilty and can be overcome only if the government proves, beyond a reasonable doubt, each element of the crime charged.

Keep in mind that you must give separate consideration to the evidence about each individual defendant. Each defendant is entitled to be treated separately, and you must return a separate verdict for each defendant. Also keep in mind that you must consider, separately, each crime charged against each individual defendant, and must return a separate verdict for each of those crimes charged.

There is no burden upon a defendant to prove that he or she is innocent. Accordingly, the fact that the defendants did not testify must not be considered by you in any way, or even discussed, in arriving at your verdict.

### INSTRUCTION NO. 11

The crime of making a false statement in connection with a loan offered for insurance by the Department of Housing and Urban Development, as charged in Count 1 of the Indictment, has two elements, which are:

*One*, on or about April 2, 2007, defendant Meggan Alexander knowingly made a false statement in a universal residential loan application provided to Bank of America; and

*Two*, defendant Meggan Alexander made the false statement for the purpose of obtaining a loan from Bank of America with the intent that it be offered to or accepted by the Department of Housing and Urban Development for insurance.

A statement is "false" if untrue when made.

Count 1 charges that defendant Meggan Alexander: (1) falsely stated she was then employed by Comprehensive Systems; (2) falsely stated she did not have an outstanding judgment against her; and/or (3) falsely omitted a liability of approximately \$1,600. You may only find defendant Meggan Alexander guilty on Count 1 if you find unanimously and beyond a reasonable doubt that defendant Meggan Alexander made at least one of the allegedly false statements in Count 1. You must be unanimous in your finding about which, if any, of the false statements at issue was made.

If all of these elements have been proved beyond a reasonable doubt as to defendant Meggan Alexander then you must find defendant Meggan Alexander guilty of the crime charged under Count 1; otherwise you must find defendant Meggan Alexander not guilty of the crime charged under Count 1.



## INSTRUCTION NO. 12

The crime of making a false statement to a financial institution, as charged in Count 2 of the Indictment, has three elements, which are:

*One*, on or about April 2, 2007, defendant Meggan Alexander knowingly made a false statement to Bank of America in a universal residential loan application;

*Two*, defendant Meggan Alexander made the false statement for the purpose of influencing the action of Bank of America upon an application for a loan; and

*Three*, Bank of America was insured by the Federal Deposit Insurance Corporation ("FDIC") at the time the statement was made.

A statement is "false" if untrue when made.

Count 2 charges that defendant Meggan Alexander: (1) falsely stated she was then employed by Comprehensive Systems; (2) falsely stated she did not have an outstanding judgment against her; and/or (3) falsely omitted a liability of approximately \$1,600. You may only find defendant Meggan Alexander guilty on Count 2 if you find unanimously and beyond a reasonable doubt that defendant Meggan Alexander made at least one of the allegedly false statements in Count 2. You must be unanimous in your finding about which, if any, of the false statements at issue was made.

If all of these elements have been proved beyond a reasonable doubt as to defendant Meggan Alexander then you must find defendant Meggan Alexander guilty of the crime charged under Count 2; otherwise you must find defendant Meggan Alexander not guilty of the crime charged under Count 2.

### INSTRUCTION NO. 13

The crime of making a false statement to a financial institution, as charged in Count 3 of the Indictment, has three elements, which are:

*One*, on or about March 28, 2007, defendant Meggan Alexander knowingly made a false statement to Bank of America for employment verification purposes;

*Two*, defendant Meggan Alexander made the false statement for the purpose of influencing the action of Bank of America upon an application for a loan; and

*Three*, Bank of America was insured by the FDIC at the time the statement was made.

A statement is “false” if untrue when made.

Count 3 charges that defendant Meggan Alexander: (1) falsely represented her employer was Comprehensive Systems; and/or (2) falsely stated Comprehensive Systems’s phone number was \*\*\*-\*\*\*-9568. You may only find defendant Meggan Alexander guilty on Count 3 if you find unanimously and beyond a reasonable doubt that defendant Meggan Alexander made or caused to made at least one of the allegedly false statements in Count 3. You must be unanimous in your finding about which, if any, of the false statements at issue was made or caused to be made.

If all of these elements have been proved beyond a reasonable doubt as to defendant Meggan Alexander then you must find defendant Meggan Alexander guilty of the crime charged under Count 3; otherwise you must find defendant Meggan Alexander not guilty of the crime charged under Count 3.

**INSTRUCTION NO. 14**

The crime of making a false statement to a financial institution, as charged in Count 4 of the Indictment, has three elements, which are:

*One*, on or about September 17, 2007, defendant Meggan Alexander and/or defendant David Alexander knowingly made a false statement to Bank of America in a letter asking to avoid foreclosure and get a loan out of default;

*Two*, defendant Meggan Alexander and/or defendant David Alexander made the false statement for the purpose of influencing the action of Bank of America in connection with a requested deferment of action on a loan; and

*Three*, Bank of America was insured by the FDIC at the time the statement was made.

A statement is "false" if untrue when made.

Count 4 charges that defendant Meggan Alexander and/or defendant David Alexander: (1) falsely stated that defendant Meggan Alexander's employer was Comprehensive Systems at the time they purchased their home at 919 North Adams, Mason City, Iowa; and/or (2) falsely stated defendant Meggan Alexander quit her job in June 2007.

You may only find defendant Meggan Alexander guilty on Count 4 if you find unanimously and beyond a reasonable doubt that defendant Meggan Alexander made at least one of the allegedly false statements in Count 4. You must be unanimous in your finding about which, if any, of the false statements at issue was made or caused to be made.

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**INSTRUCTION NO. 14 (Cont'd)**

Likewise, you may only find defendant David Alexander guilty on Count 4 if you find unanimously and beyond a reasonable doubt that defendant David Alexander made at least one of the false statements at issue in Count 4. You must be unanimous in your finding about which, if any, of the false statements at issue was made or caused to be made.

If all of these elements have been proved beyond a reasonable doubt as to defendant Meggan Alexander then you must find defendant Meggan Alexander guilty of the crime charged under Count 4; otherwise you must find defendant Meggan Alexander not guilty of the crime charged under Count 4.

If all of these elements have been proved beyond a reasonable doubt as to defendant David Alexander then you must find defendant David Alexander guilty of the crime charged under Count 4; otherwise you must find defendant David Alexander not guilty of the crime charged under Count 4.

**INSTRUCTION NO. 15**

The crime of making a false statement to a financial institution, as charged in Count 5 of the Indictment, has three elements, which are:

*One*, on or about June 23, 2008, defendant Meggan Alexander and/or defendant David Alexander knowingly made a false statement to Bank of America in a letter supporting a request for modification on an existing loan;

*Two*, defendant Meggan Alexander and/or defendant David Alexander made the false statement for the purpose of influencing the action of Bank of America in connection with a requested modification of an existing loan; and

*Three*, Bank of America was insured by the FDIC at the time the statement was made.

A statement is "false" if untrue when made.

Count 5 charges that defendant Meggan Alexander and/or defendant David Alexander: (1) falsely stated defendant Meggan Alexander was employed as a nurse at the time they purchased their home in April 2007; and/or (2) falsely stated defendant Meggan Alexander quit her job as a nurse months after moving into the home in April 2007.

You may only find defendant Meggan Alexander guilty on Count 5 if you find unanimously and beyond a reasonable doubt that defendant Meggan Alexander made at least one of the allegedly false statements in Count 5. You must be unanimous in your finding about which, if any, of the false statements at issue was made or caused to be made.

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**INSTRUCTION NO. 15 (Cont'd)**

Likewise, you may only find defendant David Alexander guilty on Count 5 if you find unanimously and beyond a reasonable doubt that defendant David Alexander made at least one of the false statements at issue in Count 5. You must be unanimous in your finding about which, if any, of the false statements at issue was made or caused to be made.

If all of these elements have been proved beyond a reasonable doubt as to defendant Meggan Alexander then you must find defendant Meggan Alexander guilty of the crime charged under Count 5; otherwise you must find defendant Meggan Alexander not guilty of the crime charged under Count 5.

If all of these elements have been proved beyond a reasonable doubt as to defendant David Alexander then you must find defendant David Alexander guilty of the crime charged under Count 5; otherwise you must find defendant David Alexander not guilty of the crime charged under Count 5.

**INSTRUCTION NO. 16**

In order to show that the defendants made a statement, the government need not prove that a defendant personally made or physically wrote a statement. It is sufficient if the government establishes that a defendant knowingly caused the statement to be made.

**INSTRUCTION NO. 17**

A statement is false if it is untrue when made. A statement may be untrue in various ways. It may state as a fact something which does not exist, or it may be inaccurate in its representation of a fact. Similarly, the omission of a fact is equivalent to a false statement.

**INSTRUCTION NO. 18**

It is not necessary for the government to prove that the financial institution, specifically Bank of America, or the Department of Housing and Urban Development were influenced by or actually relied on the allegedly false statements.



**INSTRUCTION NO. 19**

Throughout this trial, testimony and exhibits have been received about the condition of the property at 919 North Adams, Mason City, Iowa. You may not consider any evidence about the condition of the property for the truth of whether or not the property was or was not in the condition described.

The condition of the property is not relevant to any issue in this case and is not a defense to any of the charges in the Indictment against either of the defendants. The testimony and exhibits are only relevant on the issue of whether either of the defendants made the false statement or intended to make the false statement that is charged in Count 5 of the Indictment.



**INSTRUCTION NO. 20**

Intent may be proven by circumstantial evidence. It rarely can be established by other means. While witnesses may see or hear and thus be able to give direct evidence of what a person does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what a defendant does or fails to do may indicate intent or lack of intent to commit an offense.

You may consider it reasonable to draw the inference and find that a person intends the natural and probable consequences of acts knowingly done, but you are not required to do so. As I have previously mentioned, it is entirely up to you to decide what facts to find from the evidence.

**INSTRUCTION NO. 21**

The government is not required to prove that a defendant knew that his or her acts or omissions were unlawful. An act is done “knowingly” if a defendant is aware of the act and does not act through ignorance, mistake or accident. You may consider evidence of a defendant’s words, acts or omissions, along with all the other evidence, in deciding whether a defendant acted knowingly.

**INSTRUCTION NO. 22**

You will note that the Indictment charges that the offenses were committed “on or about” a certain date. The government need not prove with certainty the exact date or the exact time period of the offense charged. It is sufficient if the evidence establishes that the offense occurred within a reasonable time of the date or period of time alleged in the Indictment.

**INSTRUCTION NO. 23**

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

**INSTRUCTION NO. 24**

Throughout the trial, you have been permitted to take notes. Your notes should be used only as memory aids, and you should not give your notes precedence over your independent recollection of the evidence.

In any conflict between your notes, a fellow juror's notes and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was. At the conclusion of your deliberations, your notes should be left in the jury room for destruction.

### INSTRUCTION NO. 25

In conducting your deliberations and returning your verdicts, there are certain rules you must follow. I shall list those rules for you now.

*First*, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

*Second*, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach an agreement if you can do so without violence to individual judgment, because your verdicts—whether guilty or not guilty—must be unanimous.

Each of you must make your own conscientious decisions, but only after you have considered all the evidence, discussed it fully with your fellow jurors and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right or simply to reach a verdict.

*Third*, if the defendants are found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government has proved its case beyond a reasonable doubt.

*Fourth*, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

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**INSTRUCTION NO. 25 (Cont'd)**

*Fifth*, your verdicts must be based solely on the evidence and on the law which I have given to you in my instructions. The verdicts, whether guilty or not guilty, must be unanimous. Nothing I have said or done is intended to suggest what your verdicts might be—that is entirely for you to decide.



**INSTRUCTION NO. 26**

Attached to these instructions you will find the Verdict Forms and Interrogatory Forms. The Verdict Forms and Interrogatory Forms are simply the written notices of the decisions that you reach in this case. The answers to the Verdict Forms and Interrogatory Forms must be the unanimous decisions of the jury.

You will take the Verdict Forms and Interrogatory Forms to the jury room, and when you have completed your deliberations and each of you has agreed to the answers to the Verdict Forms and Interrogatory Forms, your foreperson will fill out the Verdict Forms and Interrogatory Forms, sign and date them and advise the Court Security Officer that you are ready to return to the courtroom.

Finally, members of the jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return the Verdict Forms and Interrogatory Forms in accord with the evidence and these instructions.

December 9, 2010

Date

Linda R. Reade

Linda R. Reade, Chief Judge

United States District Court

Northern District of Iowa